IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

OP.No. 7796 of 2003(C)

PETITIONER:

G.VIJAYALEKSHMI,
EXECUTIVE ENGINEER,
COMMAND AREA DEVELOPMENT DIVISION,
CHENGANNOOR DIVISION, CHENGANNOOR

G.VIJALAKSHMI, EXECUTIVE ENGINEER,
COMMAND AREA DEVELOPEMENT DIVISION, CHENGANNOOR
DIVISION, CHENGANNOOR.

BY ADV. SRI.C.P.SUDHAKARA PRASAD
SRI.ELVIN PETER P.J.
SRI.P.N.SANTHOSH
SRI.S.D.ASOKAN
SRI.T.NAVEEN
SRI.S.RAMESH

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, IRRIGATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER, IRRIGATION
DEPARTMENT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.7796/2003

APPENDIX

PETITIONERS EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.KIDS. B3/1291/90. DT. 11.10.91 ISSUED BY THE JOINT COMMISSIONER FRO GOVT. EXAMINATIONS.

EXT.P2:- COPY OF THE RELEVANT PAGES OF THE SSLC BOOK OF THE PETITIONER CONTAINING THE CORRECT DATE OF BIRTH.

EXT.P3:- COPY OF THE APPLICATION DT. 4.6.92 SUBMITTED BY THE PETITIONER TO THE GOVERNMENT.

EXT.P4:- COPY OF THE LETTER NO.E2-992/94. DT. 29.3.94 FROM THE SUPERINTENDING ENGINEER TO THE CHIEF ENGINEER.

EXT.P5:- COPY OF THE ORDER G.O.(P) NO.45/91/P&ARD DT. 30.12.91 ISSUED BY THE GOVERNMENT.

/TRUE COPY/

P.S. TO JUDGE

ss

K. M. JOSEPH, J.

O.P NO. 7796 OF 2003 C

Dated this the 13th December, 2006

JUDGMENT

This Original Petition was filed on 5.3.2003. The matter relates to correction of date of birth in the Service Book. The date of birth of the petitioner was originally entered in the SSLC Book as 17.3.1948. According to petitioner, the correct date of birth is 17.5.1948. She filed an application for correction in the SSLC Book. That came to be allowed by the Joint Commissioner vide Ext.P1 and the date of birth of the petitioner was corrected as 17.5.1948. Thus, the petitioner would be entitled to continue in service till 31.5.2003. On the basis of the correction in the SSLC Book, enclosing the same along with Ext.P1 order, petitioner submitted an application dated 4.6.1992 to the first respondent. Ext.P3 is the application. It was routed through proper channel and it was received by the first respondent within one month from the date of Ext.P3. But the date of birth in the Service records was not corrected.

Petitioner submitted another representation dated 21.3.1994 as a reminder to Ext.P3. Ext.P4 is produced as a letter sent by the Superintending Engineer, KIP Circle, Kollam to the Chief Engineer, Project III (Kallada) on which petitioner relies to show that the petitioner had in fact submitted an application and it is pending. Ext.P5 is an order by the Government prescribing the conditions for effecting correction of date of birth in the service records. Petitioner, going by the date of birth as entered in the service records, came to retire on 31.3.2003. Her complaint is that the application has not been considered.

2. I heard the learned counsel for the petitioner and also the learned Government Pleader. Petitioner submits that the application has been submitted accompanied by Ext.P1 Order and also the corrected SSLC Book and her application should have been considered. At any rate, this Court should direct consideration of the application, as the application is otherwise proper, petitioner submits. Petitioner is entitled to a reply in the matter. There is no Counter Affidavit filed. Thus, it must be

taken that the petitioner had, in fact, made the application. The only question that arises is that having regard to the fact that the petitioner waited till 5.3.2003 to file the Writ Petition, even though the application for correction made in the year 1992, whether the Writ Petition deserves consideration. Further, even going by the corrected date of birth, petitioner will retire on 31.5.2003. Therefore, the difference between the date of birth and the corrected date of birth is only two months. Petitioner also relies on a Division Bench decision of this Court in State of Kerala v. Gopalan Chettiar (1993 (2) KLT 169) in support of her contention that there is a duty to take a decision on her application. Even though the petitioner may be correct in saying that the petitioner has filed application, I would think that there is considerable delay which amounts to laches in approaching this Court and that the benefit the petitioner would have got is of 0two months. At this distance of time, I need not extend the discretionary jurisdiction in favour of the petitioner only in view of the fact that the approach made by the petitioner is in the year

2003, virtually on the eve of her retirement, even though the cause of action arose some time in 1992.

The Original Petition is dismissed.

K. M. JOSEPH, JUDGE

kbk.

K. M. JOSEPH, J.

O.P NO. 7796 OF 2003

JUDGMENT

13th December, 2007.